

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RICKEY WILLIAMS,
Plaintiff,

v.

COUNTY OF SAN MATEO, et al.,
Defendants.

Case No. 20-cv-03801-VKD

**SECOND ORDER TO SHOW CAUSE
WHY ACTION SHOULD NOT BE
DISMISSED**

Plaintiff Rickey Williams filed this action on June 9, 2020. Dkt. No. 1. On January 4, 2021, in view of the COVID-19 pandemic and suspension of personal service of process by the U.S. Marshals Service, the Court issued an order permitting the Clerk of the Court to issue notices of waiver of service of summons, which Mr. Williams could complete and serve upon defendants. Dkt. No. 19. If defendants elected not to waive service, the Court indicated that Mr. Williams could engage a process server and apply to the Court for an order requiring defendants to bear the cost of the process server. *Id.* The notices of waiver issued on January 5, 2021. Dkt. Nos. 21, 22.

The Court set an initial case management conference for April 6, 2021, with the parties' joint case management statement due by March 30, 2021. Dkt. No. 20. No party submitted a case management statement as ordered. The Court continued the April 6 case management conference to May 18, 2021, with a case management statement due by May 11, 2021. Dkt. No. 23. The Court further ordered Mr. Williams to submit a status report by April 8, 2021 advising the Court of his efforts to serve defendants with process and/or the notice of waiver. *Id.*

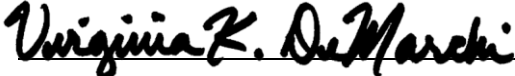
Mr. Williams did not file a status report by April 8 as ordered. No party submitted a case management statement by May 11 as ordered.

1 The Court possesses the inherent power to dismiss an action sua sponte “to achieve the
2 orderly and expeditious disposition of cases.” *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–33
3 (1962). However, all named parties, including unserved defendants, must consent to magistrate
4 judge jurisdiction before a magistrate judge may hear and decide a case. *See* 28 U.S.C.
5 § 636(c)(1); *Williams v. King*, 875 F.3d 500, 501–04 (9th Cir. 2017) (magistrate judge lacked
6 jurisdiction to dismiss case on initial review because unserved defendants had not consented to
7 proceed before magistrate judge).

8 Accordingly, Mr. Williams is directed to file a written response to this order by **May 18,**
9 **2021** and to appear before this Court on **May 25, 2021 at 10:00 a.m.** in Courtroom 2, Fifth Floor,
10 280 South First Street, San Jose, California 95113 and show cause why the Court should not
11 reassign this action to a district judge and recommend that it be dismissed without prejudice for
12 failure to prosecute, including failure to serve defendants, and for failure to comply with prior
13 orders of this Court. The May 18, 2021 case management conference is hereby VACATED.

14 **IT IS SO ORDERED.**

15 Dated: May 12, 2021

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18 VIRGINIA K. DEMARCHI
United States Magistrate Judge
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